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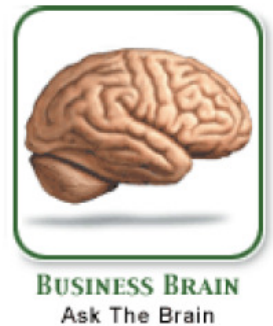
Ask the Biz Brain

Biz Brain: Removing ex-wife's name from deed

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By Karin Price Mueller/The Star-Ledger The Star-Ledger

Q. I divorced in 2009. My ex-wife and I are on good terms but her name is still on the deed of our marital home. The divorce decree says: "Husband will have sole possessory rights in that house... and that Husband agrees to refinance the house removing wife's name from the mortgage within six (6) months." This wasn't done because we wanted to keep our equity line of credit, which has a 2.75 percent rate. My ex-wife is paid off in full and has no more interest in the property, so I'm responsible for the \$107,500 debt. Am I in contempt of court and am I protected for my two children, 17 and 13, who are the sole beneficiaries of my will?
– NS in Bernardsville, NJ



A. While it seems easy to keep all as is, you're asking for possible problems. Technically, you are in contempt of court and your house would pass to your ex-wife and not your children since you didn't clear title, said Jennifer Murray, a certified financial planner with Stonebridge Financial Advisors in Morristown.

She estimates you could refinance and avoid potential problems down the road.

"It seems that you are making your life infinitely more difficult than it needs to be and the higher payment on a new line of credit might not be as much as you might think," she said. "Based on an outstanding loan amount of \$107,500 and an interest rate differential of 1.25 percent – 4 percent on a new line of credit and 2.75 percent on the existing – it would cost you an additional \$1,344 per year in interest."

Even though you're on good terms with your ex-wife today, if you don't remove her name, Murray said she could very easily move post-judgment to hold you in contempt. And if she incurred legal fees to clear the title, you could be held liable for her legal fees.

If you had refinanced within 90 days of the divorce, New Jersey would have allowed you to transfer title without a transfer tax liability, she said. After 90 days, you are subject to a reality transfer tax, which will cost you extra money.

“From a divorce perspective, failing to do what you are supposed to do within the time frame you are provided is usually not a good idea,” Murray said. “The money you may save in the short run may be lost when you have to hire an attorney to clear the title and get the home in your name.”

Gerri Detweiler of Credit.com agrees that refinancing may be the smartest option.

She said it would fulfill your responsibilities, and you could benefit in the long run.

“Yes, the rate you are paying is very low right now, but I am assuming this loan carries a variable rate and super low mortgage rates aren’t going to last forever,” she said. “I can’t predict when they will change, but now is a great time to refinance into a low rate that will last for the life of the loan.”